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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,491	06/11/2001	Kazuo Maeda	VREX-0022USAAON00	2088

7590

08/28/2002

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EXAMINER

CHANG, AUDREY Y

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/878,491

Applicant(s)

MAEDA ET AL.

Examiner

Audrey Y. Chang

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2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features concerning the method steps recited in *claims 1-3* must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they *do not* include the following reference sign(s) mentioned in the description: 20, 22, 24, 26, 30, 32, 34, and 36. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they *do not* include the following reference sign(s) mentioned in the description: 1, 2, 3, 5, 6, 7, and 8. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. Figure 1 should be designated by a legend such as *--Prior Art--* because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "24" has been used to designate both *adhesive agent* and *ultra-hard blade*. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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*Claim Rejections - 35 USC § 112*

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-3 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification fails to teach how could it be possible to manufacture a *3D image display body* by simply having a phase-difference film and with certain grooves formed on the film. The specification also fails to teach what is considered to be the phase difference film and why a 3D image display body is possible being formed by using a phase difference film. The specification further fails to teach what is the *nature* of the phase forming film and how could alternatively arranged phase-difference film areas *with grooves* is capable of creating 3D view.

8. Claims 1-3 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. *A display member* having interleaved right and left perspective images and a *coding film* having either *orthogonal polarization states* or *complementary color regions* that alternatively arranged in accordance with the display member are critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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10. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "phase difference film" recited in claims 1-3 is indefinite and confusing since it is not what does such phrase mean.

Regarding claims 2-3, the phrase "etc." renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

The phrase "on the side of the adhesive agent" recited in claim 2 is indefinite and confusing.

The phrase "an *appropriate* synthetic resin" recited in claim 3 is indefinite and confusing since it is not clear what type of resin is considered to be *appropriate*.

The claims are generally *narrative* and *indefinite*, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

The examiner is respectfully reminded that it is *applicant's responsibility* to clarify ALL of the discrepancies and indefiniteness in the claims to make them in comply with the requirements of 35 USC 112, first and second paragraphs.

#### *Claim Rejections - 35 USC § 103*

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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12. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over the patent issued to Faris (PN. 5,327,285) in view of the patent issued to Okamoto (6,147,738).

The claims are rejected under 35 USC 112, first and second paragraphs, as being not enabling and indefinite, as set forth in the paragraphs above. The limitations and the validity of the claims are not properly stated in the claims. The claims can therefore only be examined in the broadest interpretation by the examiner.

Faris teaches a method for manufacturing a *micropolarizer* having alternatively arranged polarization regions with mutually orthogonal polarization state that is used with *spatially multiplexed image elements* to create stereoscopic image display, (please see column 1). The spatially multiplexed image elements, which serve as the display member, implicitly include right eye image display parts and left eye image display parts mixed together. Faris teaches that the micropolarizer is manufactured by forming a *laminated film* having a PVA film (5 or 10, in Figures 2 and 3) laminated on a *substrate* (4), which may be either of cellulose aceto bytyrate (CAB) or cellulose triacetate (CTA), (please see column 2, lines 39-69), wherein this laminated film serve as the *phase-difference film*. The PVA film is exposed at certain regions to form a polarizer having patterned regions with polarization effect and regions without polarization effect, (please see Figures 2 and 3). The regions that do not have polarization effect are considered to be the plurality of grooves having filled appropriate synthetic resin material. It is known in the art that PVA film is a synthetic resin.

This reference has met all the limitations of the claims with the exception that it does not teach explicitly that the grooves with filled synthetic resin are formed by cutting the PVA film. However Faris does teach explicitly that one of the conventional ways for cutting away regions of the PVA film is to use a *diamond cutter* (66, Figure 6) in order to form desired micropolarizer with desired pattern, (please see column 4, lines 25-44). It would then have been obvious to one skilled in the art to use a diamond cutter

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as an alternative means for forming the micropolarizer for such modification involves merely matters of design choice since such cutter means is well known in the art.

This reference also does not teach to dispose the laminated micropolarizer on a supporting member using an adhesive agent. Okamoto in the same filed of endeavor teaches a polarizer (18) being used with a liquid crystal display that is comprised of a polarizer film (19) of a PVA film laminated on a TAC film (20) to form the *phase difference film*. Okamoto teaches that the phase difference film is further disposed on a *transparent substrate* (9) via an *adhesive material* (24), (please see Figure 3 column 6). It would then having been obvious to one skilled in the art to apply the teachings of Okamoto to modify the micropolarizer of Faris for the purpose of disposing it on a transparent support via adhesive agent wherein the transparent support may very well be the front glass plate of a display device, (please Figures 1 and 3, Okamoto), to allow the micropolarizer being used with a display device.

#### *Double Patenting*

13. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

14. Claims 1-3 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6-7 of copending Application No. 09/873,509.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the only difference is that the instant application uses a blade for cutting the film wherein cutting process is pretty standard in the art.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

15. Claims 1-3 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of copending Application No. 09/874,415.

Although the conflicting claims are not identical, they are not patentably distinct from each other because they are essentially the same method for making the polarizer and the 3D image body.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Audrey Y. Chang whose telephone number is 703-305-6208. The examiner can normally be reached on Monday-Friday (8:00-4:30), alternative Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cassandra Spyrou can be reached on 703-308-1637. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

A. Chang, Ph.D.  
August 23, 2002

*Audrey Y. Chang*  
Primary Examiner  
Art Unit 2872

